CASE SUMMARY

Complaint against Transport Department (TD) for failure to monitor/supervise the operation of the Hongkong & Yaumati Ferry Co Ltd (HYF) sufficiently during the course of preparation for and commissioning of the new Cheung Chau - Central, Mui Wo - Central and Peng Chau - Central licensed ferry services which commenced operations on 1 April 1999

THE COMPLAINT

The complainants felt aggrieved over operational problems on the first day of operation of the newly licensed ferry services and the unsatisfactory ferry service provided by HYF, the newly licensed ferry operator. Amongst other things, they were unhappy about the ferry schedules, the types of vessels used, amount of fares charged, safety standards and the apparent lack of contingency plans on the day of the changeover.

PROBLEMS ON 1 APRIL 1999

2. On 1 April 1999, the newly licensed ferry services was commissioned. The following problems were revealed on the first day of operation -

(a) **Breakdown of the Ticketing System**
Shortly after 6:00 a.m. the Octopus machines at all the HYF piers failed to detect the monthly tickets, and holders wishing to upgrade to deluxe class or fast ferries could not be processed. Consequently, HYF stopped using the Octopus system and set up manual ticketing booths at about 6:15 a.m. in the piers. This caused longer queuing time for commuters.

(b) **Capacity problem**

For Peng Chau route
Because manual ticketing booths were set up, the number of passengers could not be controlled by the ticketing system. As a result, a catamaran scheduled to depart for Central at 8:30 a.m. was overloaded. A total of 226 passengers boarded the vessel as against a licensed capacity of 199. None of the passengers on board the vessel was willing to disembark. It was only after HYF agreed to refund the fares to 28 passengers who volunteered to leave the vessel and to give them a free ride on a supplementary ferry that the ferry was able to depart at about 8:55 a.m.

For Cheung Chau route

There was a high demand for fast ferries in the morning peak hour between 8:00 -8:30 a.m. and some passengers were left behind.

For Mui Wo route
The 200-seater Central bound fast ferry scheduled for 8:30 a.m. was full, leaving behind 29 passengers.

(c) **<u>Lack of choice for passengers</u>**

<u>For Peng Chau and Mui Wo route</u>
There were insufficient ordinary ferries particularly during the morning rush hour between 8:00 and 9:00 a.m. The Mui Wo route, in particular, suffered from insufficient ordinary class seats on some ordinary vessels. Many morning commuters therefore had to take the more expensive fast ferries or the deluxe class to Central.

(d) **<u>'Insufficient' seats for ordinary class passengers in Mui Wo route</u>**
Some ordinary class passengers taking the 7:20 a.m. Central bound double decker ferry had to sit on the lower deck floor because of insufficient seating in the ordinary class section at the lower deck of the vessel. It was later noted that both ordinary class and deluxe class seats were available at the upper deck of the ferry. However the passengers on board were not advised to proceed to the upper deck.

(e) **<u>Congestion at the gangway of ferries in Mui Wo route</u>**
The 6:30 a.m. double decker ferry from Central arrived at Mui Wo at about 7:15 a.m. The unloading of goods and boarding of passengers using the same gangway on the lower deck created congestion and there was a delay of nearly 10 minutes before the ferry could depart Mui Wo for Central.

OBSERVATIONS AND OPINIONS

3. After investigating the actions of TD in the exercise of its functions, the following factors are found to be contributory to the problems identified on 1 April 1999 -

<u>The tender requirements</u>

4. We understand that the Central Pier development had been the subject of negotiation between HYF and the Government for many years. The negotiation with HYF broke down in mid August 1998. On 15 September 1998, the Chief Executive in Council decided that upon the expiry of HYF's franchise on 31 March 1999, its ferry services should be carved into various packages and put out to public tender for operation as licensed services. Tendering started on 18 September 1998 and on 3 November 1998 the licence for the operation of the three island routes was awarded to HYF.

<u>For Peng Chau route</u>

5. TD's patronage information provided for tenderers' reference indicated a total of **890** passengers from 7:00 - 8:00 a.m. The Terms of Tender only required a total capacity of not less than **800** passengers. This Office also notes that TD had not set a **minimum** capacity requirement for the hour before and after this 'peak hour', i.e. the shoulder periods.

For Mui Wo route

6. HYF's tender proposal provided for a total carrying capacity of **765** only for the time slot 7:00 - 7:59 a.m. This was below the average passenger flow of **844** as provided in TD's patronage information. This was nevertheless accepted by TD in granting the Ferry Service Licence (FSL).

For Cheung Chau route

7. The number of vessels allocated by HYF in its tender proposal was sufficient to provide the total capacity required by TD. However, the number of ordinary ferry sailings from 6:00 - 8:00 a.m. had been reduced from five to two in HYF's proposal. Before 1 April, at the request of the Cheung Chau community, HYF agreed to add a Central bound ordinary ferry sailing at 6:40 a.m. which was not included in the original tender documents.

8. TD had set the "peakest" hour to 7:20 - 8:20 a.m. in the tender requirements. As fast ferries had been provided for the Cheung Chau - Central service before the changeover, we agree that the peakest hour for this route had been more accurately set compared with that for other outlying island ferry routes. The peakest hour for the latter was set from 7:00 - 8:00 a.m.

Consultation

9. TD claimed that it had followed the proper consultation procedures and had worked closely with HYF and Islands Provisional District Board (Islands PDB) in finalizing the timetable before the commissioning of ferry service.

10. While this Office agrees with TD that passengers had all along requested faster vessels, we found nothing to indicate that passengers suggested or supported replacing ordinary ferry sailings with fast ferries. They were asking for more fast ferry sailings **on top of** the ordinary ferry sailings. The consultation before mid-1998 was conducted on the basis of HYF's Five Year Development Programme on the assumption that HYF's franchise for all the outlying islands ferry services would be renewed and cross-subsidy of loss-making routes would be continued. This would no longer be possible under the new licensing arrangements. However, this implications were never clearly spelled out to the residents concerned. We believe this is one of the factors causing residents' dissatisfaction with the arrangements for the newly licensed ferry service.

Publicity

11. TD emphasized to passengers that the new licensed ferry service would have more frequent sailings, faster ferries, shorter journey time, and reduction in fares on fast ferries and for deluxe class. The fact that some of the ordinary ferry sailings were cancelled to make way for the fast ferry sailings had not been widely publicized. This unduly raised public

expectations of the licensed ferry service.

The monitoring arrangement

12. TD established a Gearing Up Committee comprising HYF and other relevant government departments to examine, monitor and implement the gearing up and changeover arrangements.

13. To monitor the changeover on 1 April 1999, TD activated the Operation Co-ordination Centre (OCC) at 6:00 p.m. on 31 March 1999. The OCC was supported by site staff formed into Pier Observation (PO) teams and Service Monitoring (SM) teams which reported regularly to the OCC. The OCC staff was responsible for developing and coordinating emergency arrangements, if necessary. As contingency measures, HYF was required to reserve standby ferries for any supplementary trips required during the initial adjustment period and would revert to manual ticketing in case of breakdown of the ticketing system. TD also arranged a contingency contract with the Tug Boats Association for emergency ferry services.

The Pier Observation (PO) team

14. TD did not send any PO team to the three HYF piers. TD opined that HYF was the incumbent operator under the previous franchise and there should be no need for transition arrangements. This Office however considers that HYF should be treated as a new operator on 1 April. In addition, HYF had to download a different version of the data files to the fare processors in view of the fare changes on 1 April. TD should have sent a PO team to see the testing of the equipments before the commissioning of the new service.

The Service Monitoring (SM)Team

15. A SM team comprising only one Transport Officer (TO) was sent to each pier of the three islands for monitoring ferry operations on 1 April 1999.

16. This Office observes that after the TOs of the SM teams had reported their findings to the OCC, they were not informed of what remedial action the OCC had taken to address the problems reported, nor did the remit of the SM team required them to be TD's field coordinator.

17. This Office also considers that the TOs, being the only field officers in their designated piers, would have difficulty in observing freight movement and the boarding of passengers at the gangways as well as the queues before the ticket booths at the same time. To some extent this must have affected the quality of their reports to the OCC.

Remedial Measures

Capacity problem

18. After 1 April 1999, the ferry schedules for the three routes have been revised seven times, some of which entailed in the replacement of fast sailings by ordinary sailings.

Breakdown of ticketing system

19. HYF was requested immediately to make all efforts for system recovery and full testing of the ticketing system, and on the other hand, improve its contingency plan to speed up the processing time. HYF was also asked to immediately develop an enhanced plan to increase passenger throughput and improve passenger control for activation in case of a recurrence, and to arrange for full-time technical support during the subsequent holidays.

Free choice at peak hours

20. After the chao on 1 April, the number of ordinary trips has been increased during the morning and evening peak periods to give passengers a better choice. Apart from providing extra capacity, the additional trips also offered lower fare options.

NEW DEVELOPMENT

21. On 2 November 1999, the C for T gave approval to transfer HYF’s ferry services licences, to New World First Ferry Services Limited (NWFF) in mid January 2000. The transfer would not involve any change in the service conditions or fares.

REMARKS ON TD'S COMMENTS

22. Our draft investigation report (DIR) was sent to TD for comments. A summary of TD's comments together with our response are as follows :-

(a) Tender Requirements

(i) TD admits that possible mismatches between capacity and demand during shoulder periods had come to light during the gearing up and post-tender consultation periods. However, for cases which required additional resources and which would have a significant bearing on viability, TD was not in a position at that time to direct HYF to change its proposals. This Office considers TD should have taken the initiative to rectify these mismatches before 1 April 1999. The review which TD carried out after service commencement was too late to prevent the chaos.

(ii) TD maintains that it will continue the dialogue with passengers and the ferry operators to review and fine-tune the service timetables where necessary and practicable. This Office considers that "fine tuning" should not involve significant, additional resources. Since 1 April 1999, TD had required HYF to increase the number of sailings in excess of that specified in the tender. TD states that under the Ferry Services Ordinance (FSO), the C for T has the power to require HYF to provide service in excess of that stipulated in the tender. This Office does not doubt this statutory power, we consider that the normal operational requirements should have been covered by the tender and that TD's power should only be exercised under exceptional and overriding circumstances.

For Peng Chau route

TD did not see fit to insist on providing a 8:15 a.m. ordinary sailing before actual service commencement. However, we note that the patronage information supplied by TD depicted a differential of 22 passengers. On 1 April 1999, the number of left over was 28 and a fast sailing at 8:00 a.m. has to be replaced subsequently by an ordinary sailing at 8:10 a.m.

For Mui Wo route

(i) TD informs that after the post-tender consultation, one ordinary sailing was added at 5:55 a.m. Other requests were not acceded to as TD decided to await response after the commissioning of the service. Subsequent to the chaos on 1 April 1999, the number of ordinary sailings up to 9:00 a.m. was increased to five so that passengers had a choice of at least one ordinary trip per hour during the morning peak. This episode was indicative that the requirements stipulated in the tender were unrealistic.

(ii) TD considers this Office chose to ignore the 8:00 a.m. sailing proposed in HYF's tender and as a result concludes that the tender could not meet the minimum capacity requirement or the

past patronage for the 7:00 - 8:00 a.m. period. This Office notes that if the 8:00 a.m. sailing were included in this time slot, there would be a capacity shortfall of 115 for the period 8:01 - 9:00 a.m. against the figure of average passenger flow of the same period. The actual shortfall on 1 April 1999 was 29.

(b) Breakdown of Ticketing System

(i) TD states that HYF had carried out tests of the Octopus system in two stages. It further states that it is the responsibility of the operator to ensure smooth running of the system. This Office however, notes that the OCC supported by its PO team on site was responsible for noting if the new operator had tested the equipment. Also, according to TD's own guidelines, the SM team had a duty to ensure that the system would function properly.

(ii) TD informs this Office that once the problem with the ticketing system was confirmed, the department had requested HYF to embark on a number of contingency measures. We opine that if an effective contingency plan had been drawn up, HYF would have switched onto it automatically without being told by TD.

For Cheung Chau route

TD admits that the OCC was informed of the problems with the ticketing system by TOs at Peng Chau and Mui Wo at 6:15 a.m. and 6:30 a.m. respectively - well before the report from the TO at Cheung Chau at 7:50 a.m.. This Office considers that the OCC should have alerted the TO at Cheung Chau shortly after 6:30 a.m. in order that contingency measures would be set up without delay.

(c) Passengers' Choice

For Peng Chau route

TD argues that a choice had been provided to passengers aiming to arrive at Central before 9:00 a.m., i.e. the ordinary sailing at 7:45 a.m. and the fast sailing at 8:00 a.m. Nevertheless, we note that there was a shortfall for the slot between 8:00 a.m. to 8:59 a.m. and that the capacity of 199 for the fast sailing at 8:30 a.m. was insufficient to carry all passengers wishing to arrive at Central before 9:00 a.m. We note that passengers' choice was limited as there were insufficient ordinary sailings particularly during the morning peak hour between 8:00 a.m. and 9:00 a.m.

For Mui Wo route

TD considers that HYF's proposal to provide only one ordinary direct sailing at 7:30 a.m. between 7:00 - 8:00 a.m. was acceptable and that the department assumed that most commuters travelling between 8:00 - 9:00 a.m. would prefer fast ferries to reach Central in time for work. If this were the case, we wondered why TD had to require HYF to provide an additional sailing albeit via Peng Chau at 7:50 a.m. after 15 April 1999. Furthermore, we observed that there was no choice for passengers aiming to arrive at Central before 9:00 a.m. for the 8:00 -

8:59 a.m. slot and that the capacity for the 7:00 - 7:59 a.m. slot was insufficient to cope with the demand.

(d) Capacity Problem at 8:30 a.m. sailing on 1 April 1999 for Peng Chau and Mui Wo

This Office does not agree with TD's argument that the chaos at 8:30 a.m. on 1 April 1999 was a problem on the distribution of demand during the period. The timetable proposed by HYF in the tender clearly showed that it could not cope with the demand against patronage information supplied by TD. In setting the peak hour at 7:00 a.m. to 8:00 a.m., TD had not provided for increase in demand from 8:00 a.m. to 9:00 a.m. resulting from the reduction in traveling time by fast ferry.

(e) Monitoring role

TD said that all the changeover arrangements had been covered in detail in gearing-up meetings. Being an incumbent operator with so many years of experience in ferry operations, it was not unreasonable to expect HYF to perform its normal role effectively.

This Office considers TD was content to leave details of the operation to HYF which was operating the ferry service for many years. This Office doubts the effectiveness of the OCC in relation to the SM team. We note that only 1 SM staff and no PO staff was deployed to the three routes. From our interviews with the SM staff, instructions from the OCC were few and far between and the former might not have been as gainfully employed as TD's objective of ensuring an uninterrupted outlying islands ferry service. TD nevertheless admits that a one-man SM team could have been inadequate.

(f) Publicity and Consultation

(i) TD advises this Office that in setting the ferry schedule, it had to strike a balance between request for faster ferry service, keeping fares at reasonable levels, no subsidy from the Government and the generation of additional revenue by fast ferry. There is no record that TD had advised the public that the increase in the number of fast sailings was really a trade-off for ordinary sailings. The absence of such publicity might raise public expectations which did not subsequently tally with reality.

(ii) From sample press reports supplied by TD after the announcement of the award of licence to HYF, passengers' response was rather negative and sceptical. These responses should have alerted TD to closely monitor the operations of HYF, notwithstanding that HYF was the incumbent operator.

(iii) TD admits that consultations through the Island PDB and AC had

not identified passengers' major concern. TD's further advises that it will carry out passengers' opinion surveys to help the way ahead. This Office is pleased to note that TD will resort to other avenues of consultation.

CONCLUSION

23. This Office notes that TD attempts to apportion the responsibility to HYF for the chaos. We do not dispute the HYF's responsibility although it would be beyond our jurisdiction to investigate if maladministration had taken place in HYF. From information presented by TD, we note that the Department had a duty to ensure that the changeover was smooth and that the new licensed service was adequate. While we agree that some aspects remain the direct responsibility of HYF, e.g. the actual fleet operation and the proper functioning of the ticketing system, TD cannot absolve its ultimate responsibility to ensure that all aspects worked well and that the actual service delivered by HYF was smooth and acceptable. We consider that some of the problems encountered on 1 April 1999 could have been avoided or at least minimized had the tender specifications, publicity and consultation, gearing up and monitoring been adequately prepared. These inadequacies were aggravated by TD's over-confidence on HYF's ability to effect a smooth changeover given that HYF had been operating the same ferry service for many years. We consider that for the purpose of the changeover, HYF must be regarded as a new operator under completely different game rules.

24. All points considered, The Ombudsman concludes that the classification of the complaint for Peng Chau and Mui Wo should be **substantiated** while that for Cheung Chau should be **partially substantiated**.

RECOMMENDATIONS

25. The Ombudsman recommends the C for T to consider -

(a) convening regular meetings among the ferry operator, residents and TD so as to improve the existing communication channel through the District Council;

(b) working with the ferry operator to improve the passenger service environment which have been the subjects of many complaints;

(c) requiring the ferry operator to conduct regular testing of the automatic ticketing system to ensure that it works properly and effectively, and to streamline and improve the efficiency of the manual ticketing system in the event of a sudden breakdown of the automatic ticketing system; and

(d) reviewing the situation with the ferry operator with a view to seeking further improvements in meeting reasonable demand and aspirations of passengers.

26. The Ombudsman is pleased to note that TD agrees with our recommendations and is in fact working on all of them jointly with NWFF who will be taking over HYF's ferry services as from mid January 2000.

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